

# **EXHIBIT U**

Civil Court of the City of New York

County of Kings  
Part A

Index Number 303352/23  
Motion Cal. # \_\_\_\_\_ Motion Seq. # 2

DECISION/ORDER

Recitation, as required by CPLR §2219 (a), of the papers considered in the review of this Motion:

Tirolli Bi LLC  
  
Claimant(s)/Plaintiff(s)/Petitioner(s)  
against  
Thelma Andrews  
  
Defendant(s)/Respondent(s)

Papers	Numbered
Notice of Motion and Affidavits Annexed.....	<u>NYSCEF 19-22</u>
Order to Show Cause and Affidavits Annexed.....	_____
Answering Affidavits .....	<u>0</u>
Replying Affidavits.....	_____
Exhibits .....	_____
Other.....	_____

CIVIL COURT OF THE  
CITY OF NEW YORK  
JULY 12, 2024  
ENTERED  
KINGS COUNTY

Upon the foregoing cited papers, the Decision/Order on this Motion to \_\_\_\_\_

Petitioner commenced this nonpayment proceeding is as follows:  
to recover possession of apt 20H @ 49-57 Crown St, Brooklyn  
NY 11225. The rent demand and petition alleges that  
\$60,448.01 is due through 12/2022. The rent demand  
states that total rent sought is \$60,448.01 and total  
miscellaneous charges are \$0. The rent demand is  
accompanied by a "Detailed Charge + Arrears History Rider".  
The Rider commences in 11/2019 and charges rent through  
12/22. The rent demand shows that no payment have  
been made from 11/2019 - 12/22. Respondent seeks dismissal  
of this case based on a defective rent demand. Their  
argument is two fold: a) rent demand does not show payment  
of approx \$18,000 made by respondent for the months sought and b) that  
the rent demand includes surcharges that are not

Date \_\_\_\_\_ Judge, Civil Court \_\_\_\_\_  
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TIVOLI BI LLC

Petitioner(s)

Decision/Order

-against-

Thelma Andrews

Respondent(s)

Hon. Agata E. Rumprecht-Behrens  
Housing Court Judge

collectible on housing court. The court

A) Court notes that morant did not annex proof of payment but rather relies on a rent breakdown provided by petitioner (Exhibit A). Exhibit A clearly shows that multiple payments were made from 11/2019 - 4/2021. None of these payments are reflected on the rent demand. The \$18,000+ discrepancy is a large one. Petitioner did not oppose this motion despite several adjournments before for opposition. Purpose of the rent demand is to put a tenant on notice of the sum that the tenant has to pay to prevent litigation. See: 542 Holdings Corp. v. Prince Fashion, Inc., 46 AD3d 307 (1st Dept 2007). Failure to demand such a good faith approximation renders the predicate notice defective. Dondy v. McAlpine, 27 Misc3d 138(A) (Ap Term 2nd Dept (2010))

Date: July 1, 2024

Hon. Agata E. Rumprecht-Behrens  
Housing Court Judge

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TIVOLI BI LLC

Petitioner(s)

Decision/Order

-against-

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Housing Court Judge

a defective rent demand cannot be used to  
~~set~~ maintain a nonpayment case. On a  
summary judgment, the court is able to search  
the record and grant the relief required even  
if the issue is ~~not~~ see *Freidus v. Todem Homes Inc*  
80 AD2d 575 (NY App Div. 201781)

Based on the above, ~~pet~~ respondents motion is granted  
and the case is dismissed w/o prejudice. The  
court does not need to reach the other issues  
raised on the motion. Respondent is directed to  
serve a copy of this Decision/Order with a  
Notice of Entry on petitioner's counsel by NYSCEF  
on or before 7/22/24.

This constitutes the Decision/Order of the  
Court.

Date: July 1, 2024



Hon. Agata E. Rumprecht-Behrens  
Housing Court Judge

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